

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREDERICK W. FULLER, III, et al.,

Third-Party Plaintiffs,

-v-

RHR ENTERPRISES, LLC., et al.,

Third-Party Defendants.

Case No. 09-CV-7473 (KMK)

ORDER

KENNETH M. KARAS, District Judge:

The Court entered a default judgment in favor of Third-Party Plaintiffs against Third-Party Defendants RHR Enterprises, LLC, Steven M. Rinas, Matthew Hitchcock, and Elizabeth Hitchcock. (Dkt. No. 25.) Separately, the Court referred the matter to the Honorable Lisa M. Smith, United States Magistrate Judge, for an Inquest on Damages. (Dkt. No. 21.)

Judge Smith submitted a Report & Recommendation (“R&R”) recommending that the Court award \$394,518.54 in damages, plus \$24,679.35 in attorney’s fees and \$1828.68 in costs. (Dkt. No. 28 at 12.) No objections were filed in the allotted time. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(d), 72(b) (when read together, parties have seventeen working days to file objections). Thus, to accept the R&R, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Remsen Funding Corp. of N.Y. v. Ocean W. Holding Corp.*, 06-CV-15265, 2009 WL 874212, at *1 (S.D.N.Y. Mar. 31, 2009) (internal quotation marks omitted).

The Court has reviewed the record and the R&R’s damages calculation. Because there is no clear error, the Court hereby adopts the R&R in full, with the following modification:


On that portion of the damages subject to pre-judgment interest, the R&R calculated interest to run through the date of the R&R. (Dkt. No. 21 at 8.) District courts sometimes modify the total damages recommendation by computing interest to run through the date of the final judgment issued by the district court, rather than the date of the R&R. *See Remsen*, 2009 WL 874212 at *1; *see also Bd. of Trs. of Leland Stanford Junior Univ., ex rel. CSLI Publ's v. Seven Bridges Press, LLC*, No. 02-CV-4683, 2008 WL 1990470, at *2 (S.D.N.Y. May 7, 2008) (directing the Clerk of Court to calculate simple interest running through the date of entry of judgment). With interest accruing at \$6.57 per day from July 16, 2010 to the date of this Order (February 14, 2013) — 944 days — the total amount of prejudgment interest is \$6202.08.

Accordingly, the total damages under the lease is $\$393,261.10 + \$363.92 + \$6202.08 = \$399,827.10$. (*See* Dkt. No. 21 at 8.) In addition, Third-Party Plaintiffs are awarded \$24,679.35 in attorney's fees and \$1828.68 in costs. (Dkt. No. 21 at 12.) Therefore, the Clerk of Court is respectfully requested to enter judgment in the amount of \$426,335.13 for Third-Party Plaintiffs.

The Clerk of Court is also respectfully directed to close this case.

SO ORDERED.

Dated: February 14, 2013
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE